

**Remarks**

In the Office Action mailed April 6, 2004, the Examiner rejected claims 1-66 under 35 U.S.C. 103(a) as being obvious in light of United States Patent No. 5,774,878 to Marshall ("Marshall") in view of United States Patent No. 6,278,982 to Korhammer et al. ("Korhammer"). For the reasons set out in detail below, Applicants respectfully submit that claims 1-66 are not obvious in light of Marshall and Korhammer and request that the Examiner withdraw the rejection of claims 1-66 under 35 U.S.C. 103(a).

Independent Claims 1, 36, 42, 47 and 57 are not obvious over Marshall and Korhammer:

In the response to the prior office action, Applicants argued that Marshall does not teach or suggest "user preferred securities" as that term is used in the present disclosure and pending claims. In the office action mailed April 6, 2005, the Examiner rejected Applicants' argument, asserting as follows:

In response to Applicant's argument that Marshall does not teach or suggest "user preferred securities" or an equivalent concept, the Examiner respectfully disagrees. For instance in Column 12 lines 25-35, Marshall discloses allowing a user to select any combination of financial instruments. The term "user preferred securities" is given its broadest possible interpretation to include securities selected by the user. The user can represent these selected instruments in one or more dimensional form called metaphors. Hence Marshall clearly teaches the limitation of "representing the user preferred securities in an N dimensional graph on a client system".

Applicants respectfully submit that the Examiner's employment of the "broadest possible interpretation" of the claim language in order to read such language on Marshall is overbroad. Applicants respectfully submit that the proper role for the Examiner is to give each claim its broadest reasonable interpretation, and that the claim language must be interpreted by the Examiner "in light of and consistent with the written description." See MPEP 2111; MPEP 2163; *In re Morris*, 127 F.3d 1048, 1053-54, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997). In the *Morris* case, the Federal Circuit specifically directed the PTO to take into account "whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant's specification." *Id.* at 1054-55.

Neither Korhammer nor Marshall teach "user preferred securities"

Applicants respectfully submit that the Examiner's "broadest possible interpretation" standard is inconsistent with the proper "broadest reasonable interpretation" standard. As described in Applicants' written description, "user preferred securities" are defined as "securities that meet [a set of] M user specific criteria." See p. 27, line 7 through p. 28, line 3.

In support of his position that Marshall teaches "user preferred securities," the Examiner has cited to Column 12 lines 25-35 of Marshall, which read as follows:

The instruments filter 62 allows the user to select any combination of financial instruments for display in the virtual reality world (see FIG. 6). All possible instruments can be displayed, including stocks, options, futures, commodities, financial indexes, foreign exchange, bonds, and mutual funds. For example, if the user was only interested in stocks and bonds, the user could select, using the instrument filter 62, stocks and bonds so that the virtual reality world comprises financial information concerning stocks and bonds, and no other instruments.

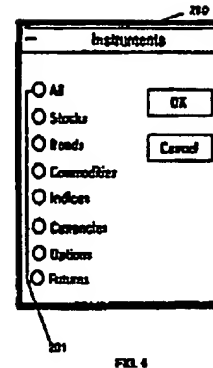


Figure 6 of Marshall, which depicts the "instruments filter 62" is shown above and to the right. Upon a review of Figure 6 and the cited text, it can be seen that "instruments filter 62" provides a user with the ability to select only certain types or categories of financial instruments for inclusion in an analysis, and nothing more. Applicants respectfully submit that Marshall does not provide the user with the ability to select particular securities based on "user specific criteria" as that term is used in the present application.

At the outset, Applicants note that even under the "broadest possible interpretation" of the term "user specific criteria," the "instruments filter" of Marshall could, at most, be considered a teaching of a single "user specific criterion" (singular) rather than a teaching of "user specific criteria" (plural). In other words, in order to teach "user specific criteria," at least two criteria must be disclosed.

To further clarify and distinguish between the teachings of Marshall and the limitations of the pending claims, Applicants have

amended the independent claims to explicitly recite that the method employs "at least two user specific criteria." As the limited, single aspect "instruments filter" reflects only one aspect of limitation as to the instruments displayed, it cannot be considered to read on a securities filtering method employing a plurality of user specific criteria. Nor is such a limitation obvious in light of Marshall. The reason for the instruments filter of Marshall is to collect specified types or categories of instruments together. The reason for the "user specific criteria" recited in the present claims is to compare securities having similar performance characteristics, even where the securities may be of different types.

Neither Korhammer nor Marshall teach a user specific "criterion related to pricing"

To further clarify the above distinctions, the pending independent claims have been further amended to recite that at least one of the user specific criteria be "a criterion related to pricing". In certain of the dependent claims, the "criterion related to pricing" has been further limited to include specific security pricing criteria such as "Current Price", "High/Low", "Open/Close" and "Daily High/Low Count", as examples. All of these teachings are fully elaborated in the originally-filed specification. Neither the Applicants nor the Examiner has suggested that any of these teachings are found within either Marshall or Korhammer. Accordingly, Korhammer and Marshall cannot

reasonably be considered to teach each and every limitation of amended claims 1-66.

Korhammer does not teach "associating order parameters" with a "user preferred security"

In the prior response, the Applicants had argued that Korhammer failed to teach the step of "associating order parameters" with a "user preferred security". The Examiner rejected Applicants' argument, explaining as follows:

In response to Applicant's argument that Korhammer does not teach or suggest "associating order parameters with the selected user preferred security", the Examiner respectfully disagrees. For instance in Column 3 lines 44-47, Korhammer discloses order information is organized by security and sorted by price, volume and other attributes, all of which are order parameters. In Column 4 lines 8-11, Korhammer discloses that the analytical capabilities of their invention enables a customer to make various market decisions such as when and where to place orders. The term "order parameters" is given its broadest possible interpretation to include "when and where to place orders".

As above, Applicants respectfully submit that the Examiner is tasked with applying a "reasonable interpretation" rather than the "broadest possible interpretation". Further, Applicants reiterate the point made in the earlier response--that is, Korhammer cannot be read to recite "associating order parameters" with a "user preferred security" because Korhammer fails to teach the concept of a "user preferred security". Applicants respectfully submit that the Examiner is not free to read the term "user preferred securities" as being identical to the term "securities", thereby

reading the limitation "user preferred" completely out of this element.

The Examiner's response appears to be directed to whether or not Korhammer teaches "order parameters". Whatever Korhammer may be reasonably read or interpreted to teach with respect to "associating order parameters" with something, Korhammer does not teach or suggest the concept of "user preferred securities" as that term is used in the pending claims, and can therefore not be read to teach the step of "associating order parameters" with a "user preferred security".

The Examiner's attention is directed to column 8, lines 50-55, which describe the method by which a security is selected within the context of Korhammer. Specifically, Korhammer teaches that a security is selected by the user by entering its ticker symbol in an entry box. Though the selection of a security in this manner may cause the security to be considered a "user preferred" security in the "broadest possible" sense, it cannot be considered a "user preferred security" as that term is used in the present disclosure.

Neither Marshall nor Korhammer teach "automatically executing a trade in a selected user preferred security"

Independent claim 11 has been amended to recite the step of "automatically" executing a trade in a selected user preferred security. Claim 11 further recites that the step of automatically executing a trade in a user preferred security includes the steps of associating order parameters with the selected user preferred

security, sending an instruction to trade the selected user preferred security from the client system to the server system and routing the order from the server system to a trade execution location. Applicants respectfully submit that this teaching is not found in either Marshall or Korhammer.

It would not have been obvious to combine the teachings of Marshall and Korhammer

The Examiner responded to Applicants' argument against a motivation to combine as follows:

In this case, both Marshall and Korhammer are concerned with the problem of aiding a customer to view and analyze information about financial securities of interest to them. Hence it would have been obvious to one with ordinary skill in the art at the time of the current invention to include the teachings of Korhammer to the disclosure of Marshall. This would have helped the users make various market decisions, such as when and where to place orders after visualizing the relevant data.

To the extent that the Examiner's characterization of Marshall and Korhammer is correct, Applicants respectfully submit that this does not establish that one of skill in the art would be led to combine the teachings of Marshall and Korhammer with other knowledge in order to create a system capable of identifying a set of user preferred securities based in part on a pricing criterion and then facilitating a trade in one of the user preferred securities identified based on a pricing criterion. Neither the Examiner nor the Applicants have found a teaching of either of these goals in either of the cited references. Accordingly, Applicants respectfully submit that it would not be obvious to combine the

virtual reality generator of Marshall with the trade execution system of Korhammer simply because both references generally relate to securities information. Accordingly, a rejection of claims 1-66 based on this combination is improper, and Applicants respectfully request withdrawal of the rejections.

#### **Fee Statement**

The number of independent claims and the total number of claims remain unchanged by way of the present Response. Applicants have filed herewith Form PTO-2038 authorizing payment of the \$790 fee associated with the request for continued examination enclosed herewith. Accordingly, Applicants believe no additional fees are due in conjunction with the filing of this Response. If additional fees are due, however, please debit our deposit account, Account No. 03-1130.

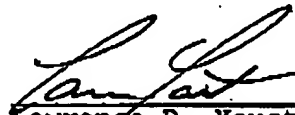


### Conclusion

Applicants have made a diligent effort to advance the prosecution of this application by amending the claims and pointing out the manner in which the combination of the cited references is not obvious. An early Notice of Allowance of claims 1-66 is, therefore, respectfully solicited.

Dated this 29th day of June, 2005.

Respectfully submitted:



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